UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,846	09/29/2003	Mark Bernard Hettish	2003P08062US	3718

7590   07/29/2009

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
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EXAMINER
PADMANABHAN, KAVITA

ART UNIT	PAPER NUMBER
2161	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 May 2009</u>.
2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-7 and 15-17</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-7 and 15-17</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>29 September 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   Claims 1, 15, and 16 have been amended.

2.   Claims 1-7 and 15-17 are pending.

3.   Claims 1-7 and 15-17 are rejected.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
> sale in this country, more than one year prior to the date of application for patent in the United States.

5.   **Claims 1-7 and 15-17** are rejected under 35 U.S.C. 102(b) as being anticipated by

Diacakis et al. (US 2002/0116336, hereinafter "Diacakis").

In regards to **claim 1**, **Diacakis** teaches a method, comprising:

−   interfacing an identity oriented context application that represents a context of an identity

     based on an availability or state of the identity with a device oriented context application

     that determines an availability or state of a device associated with the identity, where the

     identity is a person or a group of persons **(Diacakis; Fig. 1; Fig. 4 – presence detection**

     engine interpreted as device oriented context system since it determines user's

     presence on particular devices, and availability management engine interpreted as

identity oriented context system since it determines user's availability based on user's situation; par [0026]; par [0044]-[0045]);

— determining, by said device oriented context system, a device oriented context for a specific device associated with the identity **(Diacakis; par [0043]-par [0044] –** *"to determine if the individual is present on a landline telephone, for example, the landline desk phone 44 in his office," "to determine if the individual is present on his mobile phone 46", "to determine whether an individual is present on other devices such as, for example, a personal digital assistant (PDA) 50 or a pager 52"*; **Fig. 8)**, wherein said device oriented context provides an availability status of said specific device **(Diacakis; par [0026]; par [0043]-par [0044] – a landline telephone is clearly a specific device for which an availability status is determined, as is a PDA; par [0045]; par [0053])**;

— determining, by said identity oriented context system, an identity oriented context for said identity, wherein said identity oriented context provides an availability status of said identity **(Diacakis; par [0046]; par [0056]; par [0059]; Fig. 8)**;

— determining an availability rule associated with said identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity **(Diacakis; par [0031]; par [0034]; par [0038] –** *"determine the individual's availability based on the presence information as well as additional information, such as the individual's situation and defined rules and preferences"*; par [0040] – *"For example, if the individual had scheduled to be in*

his office from 9am to 5pm, the presence detection engine 18 may determine that

during that time period the individual is present on the networks available to him in his

office, which may be, for example, telephone and instant messaging.");

- determining, for a specific time, a true availability of said identity based, at least in part,

  on said determined device oriented context for said specific device associated with said

  identity, said determined identity oriented context and said determined availability rule at

  said specific time **(Diacakis; par [0026]; par [0034] – par [0035]; par [0038]; par**

  [0040] – *"As illustrated in FIG. 4, the presence detection engine 18 may receive*

  various inputs to determine, to the extent possible, the individual's presence. One type

  of input that the presence detection engine 18 may use to help determine the

  individual's presence is time-based input 40."; **par [0043] – par [0044]; par [0056];**

  [0059]; Fig. 8); and

- providing data indicative of said true availability of said identity **(Diacakis; par [0035];**

  Fig. 8).

In regards to **claim 2**, **Diacakis** teaches the method of claim 1, further comprising receiving a

request for information regarding true availability of said identity **(Diacakis; par [0029] – par**

[0030]).

In regards to **claim 3**, **Diacakis** teaches the method of claim 1, wherein said determining said

true availability of said identity includes determining availability of said identity via at least two

different media channels **(Diacakis; par [0031], lines 21-25; par [0035]; par [0038]; par [0040]; par [0043] – par [0044])**.

In regards to **claim 4**, **Diacakis** teaches the method of claim 1, further comprising establishing said availability rule **(Diacakis; par [0031])**.

In regards to **claim 5**, **Diacakis** teaches the method of claim 1, wherein said providing data indicative of said true availability of said identity includes displaying an interface indicative of said availability **(Diacakis; par [0056]; Fig. 8)**.

In regards to **claim 6**, **Diacakis** teaches the method of claim 5, wherein said interface identifies said identity **(Diacakis; par [0056]; Fig. 8)**.

In regards to **claim 7**, **Diacakis** teaches the method of claim 1, further comprising determining said identity **(Diacakis; par [0038]; par [0056]; Fig. 8)**.

Claims 15 and 16 are each rejected with the same rationale given for claim 1.

In regards to **claim 17**, **Diacakis** teaches the method of claim 1, wherein said identity is associated with a plurality of devices **(Diacakis; par [0026]; par [0044] – par [0045]; Fig. 8)**.

Response to Arguments

6.   Applicant's arguments filed 5/4/09 with respect to the prior art rejections of the claims have been fully considered but they are not persuasive.

Applicant argues at page 7 of applicant's remarks that Diacakis does not teach determining, for a specific time, a true availability of the identity based, at least in part, on the device oriented context for the specific device associated with the identity, the identity oriented context and the availability rule at the specific time.

The examiner respectfully disagrees and asserts that Diacakis does indeed teach determining a true availability of an identity based on all three factors claimed. Specifically, Diacakis teaches determining a true availability based at least in part on the device oriented context for the specific device associated with the identity (Diacakis; par [0026] - *the wireless telephone is switched off, then that person is not present on a telephone network, and thus unable to communicate with others on the telephone network.*") This teaches that if the phone is in a status of "off" the person is not present because *the phone is unavailable.* Therefore, the presence provides an availability of the device, i.e. unavailable. This is just one factor that is used by Diacakis to determine a true availability of the identity (Diacakis; par [0038] - "*The presence detection engine 18 may transmit the presence information to the availability management engine 20, which in turn* **may determine the individual's availability based on the presence information as well as additional information, such as the individual's situation and defined rules and preferences**"). The individual's situation constitutes the identity oriented context that is also taken into account by Diacakis when determining a true availability of the identity. Diacakis also recites, "*One type of input that the presence detection engine 18 may use*

to help determine the individual's presence is time-based input 40." (Diacakis; par [0040]),

which teaches an availability rule at a specific time as an input when determining the true

availability of the identity. The examiner respectfully refers the applicant to the previous Office

Action, mailed 10/17/08, for further clarification with regards to the examiner's position.

The applicant argues at page 8 of applicant's remarks that it is not seen where Diacakis

discloses two distinct applications, namely an identity oriented context application and a device

oriented context application. The examiner respectfully refers to Fig. 1 and Fig. 4, reference

characters 18 and 20, where the Presence Detection Engine of Diacakis constitutes the claimed

device oriented context application and Availability Management Engine of Diacakis constitutes

the claimed identity oriented context application.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to **Kavita Padmanabhan** whose telephone number is **(571)272-**

8352. The examiner can normally be reached on Monday-Friday, 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kavita Padmanabhan   July 26, 2009
Primary Examiner, Art Unit 2161

/Kavita Padmanabhan/